

## MEMORANDUM

TO: Board of Environmental Protection  
FROM: Peter Carleton, Bureau of Air Quality Control  
SUBJECT: Sprague Energy Corp.  
DATE: December 16, 2010

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### **Statutory and Regulatory References:**

Sprague Energy Corp. (Sprague) currently operates the Searsport, Maine bulk gasoline storage facility under the terms and conditions established in Air Emission License A-97-71-H-R/A issued on June 2, 2006. From October 27, 2000 to June 2, 2006, Sprague operated the Searsport facility under the terms and conditions established in Air Emission License A-97-71-F-R which is in the name of C.H. Sprague & Son Company.

### **Description:**

From quarterly Excess Emissions Reports submitted to the Department on July 11, 2008 and August 19, 2008, the Department documented that Sprague did not meet the continuous opacity monitoring system (COMs) uptime requirement of 95% as required by 06-096 CMR 117(5)(B). Sprague's 2008 2<sup>nd</sup> quarter revised quarterly report calculates the Stack #1 COMs downtime as 199.5 hours of total downtime, which equates to total COMs uptime of 90.55%.

Also, from quarterly reports and excess emissions notifications for the second quarter of 2003 through the third quarter of 2009, the Department documented that Sprague violated opacity standards as established in Air Emission Licenses A-97-71-F-R and A-97-71-H-R/A.

### **Location:**

Searsport, Maine

### **Environmental Issues:**

The Department imposes air emission license conditions to ensure that the licensed equipment is operated in a manner consistent with good air pollution control practices and in a manner protective of air quality. Compliance with all air emission license conditions and applicable regulations is essential to the maintenance of good air quality.

### **Department Recommendation:**

Staff recommends approval of the Consent Agreement which requires Sprague to make payment of civil penalties in the amount of \$17,500.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

IN THE MATTER OF:

BETH NAGUSKY  
ACTING COMMISSIONER

SPRAGUE ENERGY CORP.	)	ADMINISTRATIVE CONSENT
HANCOCK COUNTY	)	AGREEMENT
SEARSPORT, MAINE	)	38 M.R.S.A. § 347-A
AIR QUALITY VIOLATION	)	
2009-161-A		

This Agreement by and among Sprague Energy Corp. (also having used the name C.H. Sprague & Son Company), the Maine Department of Environmental Protection (the "Department") and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1)(A).

The parties agree as follows:

1. Sprague Energy Corp. (Sprague) is a corporation organized and existing under the laws of the State of Delaware authorized to conduct business in Maine and doing business at its facility located on Mack's Point Road in Searsport, Maine as a bulk petroleum storage and distribution terminal.
  2. From October 27, 2000 to June 2, 2006, Sprague operated the Searsport, Maine facility under the terms and conditions established in Air Emission License A-97-71-F-R which is in the name of C.H. Sprague & Son Company. This license should have been issued under the name of Sprague Energy Corp. Sprague currently operates under the terms and conditions of Air Emission License A-97-71-H-R/A issued on June 2, 2006. This license was issued to "Sprague Energy", however, the legal name of the company is Sprague Energy Corp.
  3. The Department's rule for *Source Surveillance*, 06-096 CMR 117(5)(B) states in relevant part:
  5. Data Recovery Requirements. Emission monitoring devices must record accurate and reliable data during all source-operating time except for periods when emission monitoring devices are subject to established quality assurance and quality control procedures or to unavoidable malfunction.
- B. The department may not initiate enforcement action pursuant to 38 MRSA Section 349 against any person for failure to operate a continuous opacity monitoring system as long as the system is recording accurate and reliable data at least 95% of the source-operating time in each quarter of the calendar year, excluding time periods when the licensee is performing quality assurance and

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)

quality control procedures on the system that are required by the department. If the continuous opacity monitoring system is recording accurate and reliable data less than 95% of the source-operating time within any quarter of the calendar year, the department may initiate enforcement action for any period of time that the continuous opacity monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the Commissioner that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and quality control procedures or unavoidable malfunctions.

4. Air Emission License A-97-71-F-R, Condition (16), paragraph G, paragraph 1, states in relevant part:

(16) Boilers #1 and #2

G. Visible Emissions

1. C. H. Sprague & Son Company shall not exceed 20% opacity from Stack #1 (servicing both Boiler #1 and Boiler #2), measured as 6 minute block averages, except for one 6-minute block average period per hour of not more than 27% opacity.

5. Air Emission License A-97-71-H-R/A, Condition (16), paragraphs F and G, state in relevant part:

(16) Boiler #1 and #2

F. Sprague Energy shall maintain a Continuous Opacity Monitor System (COMS) to monitor the emissions from Stack #1. [40 CFR 60.47c(a)]

G. Visible Emissions from Stack #1 (servicing both Boiler #1 and Boiler #2) shall not exceed 20% opacity, measured as 6 minute block averages, except for one 6-minute block average period per hour of not more than 27% opacity.

6. During reviews of quarterly Excess Emissions Reports submitted to the Department on July 11, 2008 and August 19, 2008, the Department documented that Sprague did not meet the continuous opacity monitoring system (COMs) uptime requirement of 95% as required by 06-096 CMR 117(5)(B). Sprague's 2008 2<sup>nd</sup> quarter revised quarterly report calculates the Stack #1 COMs downtime as 199.5 hours of total downtime, which equates to total COMs uptime of 90.55%.

<b>SPRAGUE ENERGY CORP.</b>	)	<b>ADMINISTRATIVE CONSENT</b>
<b>HANCOCK COUNTY</b>	)	<b>AGREEMENT</b>
<b>SEARSPORT, MAINE</b>	)	<b>38 M.R.S.A. § 347-A</b>
<b>AIR QUALITY VIOLATION</b>	)	
<b>2009-161-A</b>		

7. During review of the above referenced quarterly reports and excess emissions notifications for the second quarter of 2003 through the third quarter of 2009, the Department documented that Sprague violated opacity standards as established in Air Emission License A-97-71-F-R, Condition (16), paragraph G, paragraph 1 and Air Emission License A-97-71-H-R/A, Condition (16), paragraph G. These violations are described in the following table:

<b>Year</b>	<b>Quarter</b>	<b>Incidents (6-Minute Blocks)</b>	<b>Pollutant</b>
2003	2 <sup>nd</sup>	2	Opacity
2003	4 <sup>th</sup>	3	Opacity
2004	4 <sup>th</sup>	1	Opacity
2005	1 <sup>st</sup>	2	Opacity
2005	4 <sup>th</sup>	5	Opacity
2006	3 <sup>th</sup>	63	Opacity
2006	4 <sup>th</sup>	6	Opacity
2007	1 <sup>st</sup>	5	Opacity
2007	3 <sup>rd</sup>	2	Opacity
2007	4 <sup>th</sup>	17	Opacity
2008	1 <sup>st</sup>	3	Opacity
2008	2 <sup>nd</sup>	9	Opacity
2008	3 <sup>rd</sup>	2	Opacity
2008	4 <sup>th</sup>	25	Opacity
2009	3 <sup>rd</sup>	1	Opacity

8. A Notice of Violation (NOV) was issued to Sprague on April 21, 2009 for the violations described in paragraphs six (6) and seven (7).
9. For the purposes of this Agreement, Sprague agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
10. The Department has regulatory authority over the activities described herein.
11. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is a part of the Department.
12. This Agreement shall not become effective unless and until it is approved by the Board and the Office of the Attorney General.

SPRAGUE ENERGY CORP.  
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)

13. To resolve the violations identified in paragraphs six (6) and seven (7), Sprague agrees to pay the sum of seventeen thousand, five hundred dollars (\$17,500.00) as a civil monetary penalty immediately upon signature of this Agreement, to the *Treasurer, State of Maine.*
14. The Department and the Office of the Attorney General grant Sprague a release of the causes of action that they have for the specific violations described in paragraphs six (6) and seven (7) above and for any violations of the State's air quality laws reported to the Bureau of Air Quality in writing through the 3<sup>rd</sup> Quarter 2010 in consideration of the requirements called for in paragraph thirteen (13) above. The release shall not become effective until all requirements of this Agreement are satisfied.
15. Non-compliance with this Agreement voids the release set forth in paragraph fourteen (14) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
16. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
17. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this agreement of four (4) Pages.

SPRAGUE ENERGY CORP.

BY: Elizabeth Hernberg 11-15-10  
NAME, TITLE ELIZABETH HERNBERG, MANAGING DIRECTOR, HSE DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
SUSAN M. LESSARD, CHAIR DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_  
GERALD D. REID, ASSISTANT ATTORNEY GENERAL DATE